

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
SEVENTH REGION**

BLUE DOT SERVICES COMPANY OF MICHIGAN<sup>1</sup>

Employer

and  
22110

Case No. 7-RC-

LOCAL 80, SHEET METAL WORKERS INTERNATIONAL  
ASSOCIATION, AFL-CIO

Petitioner

and

LOCAL 98 AND LOCAL 636, UNITED ASSOCIATION OF  
22111  
JOURNEYMEN AND APPRENTICES OF  
THE PLUMBING AND PIPE FITTING INDUSTRY  
OF THE UNITED STATES AND CANADA, AFL-CIO

Case No. 7-RC-

Joint Petitioners

APPEARANCES:

Ralph A. Morris, Attorney, of Chicago, Illinois, for the Employer.

J. Douglas Korney, Attorney, of Bingham Farms, Michigan, for the Petitioner and Joint  
Petitioners.

**DECISION AND DIRECTION OF ELECTION,  
AND ORDER DISMISSING PETITION**

Upon petitions duly filed under Section 9(c) of the National Labor Relations Act, as amended, hereinafter referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

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<sup>1</sup> The name of the Employer appears as corrected at the hearing.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,<sup>2</sup> the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organizations involved claim to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

The Employer, a corporation with facilities located at 30633 Schoolcraft, in Livonia, Michigan; 25851 Trowbridge, in Inkster, Michigan; and 1899 South Telegraph, in Bloomfield Hills, Michigan, is engaged in the business of providing heating, air conditioning, plumbing, duct cleaning, and electrical installation and service on a residential and commercial basis.

Petitioner Local 80 seeks to represent a unit of approximately 35 employees consisting of all full-time and regular part-time sheet metal workers (including journeymen, apprentices, and working foremen) and heating, ventilation and air conditioning (HVAC) installers. Joint Petitioners Local 98 and Local 636 seek to represent a separate unit of approximately 46 employees consisting of all full-time and regular part-time plumbers (including journeymen, apprentices, and working foremen) and HVAC service technicians. The Employer contends that the only appropriate unit is a single, overall unit combining the employees sought by the Petitioner and Joint Petitioners, plus 12 warehouse employees and 14 customer service representatives. All parties agreed that the multi-facility unit as petitioned for, including the Livonia, Inkster, and Bloomfield Hills facilities, is appropriate. There is no history of collective bargaining with respect to the employees involved.

In about January 1998, the Employer purchased the Livonia facility, which previously operated under the name "Bergstrom's." The Employer purchased the Bloomfield Hills facility (previously "Cast Heating and Cooling") in about June 1999, and the Inkster facility (previously "Cherry Hill") in about January 2000, which on about January 1, 2001, legally became one corporation, Blue Dot of Michigan.

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<sup>2</sup> The parties filed briefs, which were carefully considered.

The Bloomfield Hills facility (also referred to as the North facility) is about 25 miles north of the Livonia facility. The Inkster facility (also referred to as the South facility) is approximately 10 to 12 miles south of the Livonia facility. Most of the support staff, as well as accounting and human resources, operate out of the Livonia facility. The petitioned-for classifications work out of all three locations. However, most of the commercial employees work out of the South facility, and most of the residential employees work out of the North facility. The Livonia facility employs about an even mix of residential and commercial workers. The petitioned-for employees mostly work in the field, and only stop in to their work locations to pick up uniforms, or drop off collected money or parts. Therefore, some employees, whether residential or commercial, work out of the location that is geographically most convenient for them. Employees can also make pick ups or drop offs at any of the three locations if it is more convenient based on the jobs they are working.

The human resources department, headed by HR Manager Jill Brewer, oversees all three facilities. The HR Department is responsible for setting wage levels, reviewing disciplinary decisions, scheduling vacation requests, authorizing leaves of absences, and filling vacant positions at any of the three facilities for any job classification. New employees receive an orientation and are subject to a 90-day probationary period. All employees, regardless of classification, are covered by an Employer handbook, paid at an hourly rate, for the same payroll period, and on the same date. Employees of all classifications receive the same benefits, including group insurance, life insurance, disability, holidays, and vacation days. The number of vacation days varies depending on an employee's level of seniority with the Employer. All classifications wear similar uniforms, with the exception of customer service representatives, who typically wear business attire. Daily interaction occurs among employees when they pick up their uniforms, and when they pick up their communication boxes. Employees working at the facility typically take breaks at the same time of day, which is usually whenever the cafeteria truck comes by (the truck comes by only once a day). All classifications have a substantial amount of customer and/or vendor contact.

About half of the Employer's customers are commercial and half are residential. Greg Bartnick, the commercial general manager, is in charge of commercial operations. Bartnick works out of the South facility. Christine Elder, the residential general manager, is in charge of residential operations.<sup>3</sup> Elder works out of the North facility and oversees all employees working on residential projects, such as residential or "service" plumbers, and residential HVAC service technicians. Bartnick and Elder report to Andy Piercefield, the president and general manager of the Employer. The immediate supervisor of the commercial HVAC service technicians, Don De Roo, reports to Bartnick. The field supervisors of the commercial HVAC technicians, Dennis Podpora and Steve Choate, report to De Roo and Bartnick. John Meade, the HVAC residential service manager, is the immediate supervisor of the residential

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<sup>3</sup> At the hearing, the parties stipulated that Elder, Bartnick, De Roo, Podpora, and Choate, are statutory supervisors under 2(11) of the Act, as they all direct the work of others using independent discretion.

service technicians and reports to Elder. The field supervisors of the residential technicians, Chris Cantwell and Matt Lawrey, report to Meade and Elder.<sup>4</sup>

The 19 residential and 7 commercial HVAC service technicians sought by the Joint Petitioners have responsibilities such as duct cleaning, maintenance checks, and repair of HVAC equipment. The majority of the service technicians work at the Livonia facility. HVAC service technicians are paid between \$12.00 and \$28.00 per hour, depending on their level of experience. There is some overlap among the residential and commercial HVAC service technicians. For example, if there is more commercial work at one time than residential, employees will be utilized as appropriate and on an as-needed basis. If several people are out sick from commercial, residential technicians will be sent to fill in.

The 12 service plumbers, or plumber technicians, sought by the Joint Petitioners are generally responsible for plumbing repairs, water heaters, draining under floors, and faucet repairs. Approximately three of these plumbers perform residential plumbing installation. The service plumbers generally work out of the Livonia office in the residential area, but have performed commercial work on occasion. Service plumbers generally work alone; however, HVAC residential service technicians work with the plumbers from time to time. For example, for boiler work, hydronic work, or commercial hot water heaters, a plumber may be paired up with a service technician. The HVAC service technician may install a water heater, and then a licensed plumber will be sent to inspect the work and make sure that everything has been done appropriately. The immediate supervisor of the residential plumbers is Terrence Miller (plumbing service manager). The eight installation plumbers generally perform commercial work and report to Steve Flis (South installation field supervisor) or Randy Drumhiller (plumbing field supervisor), and ultimately to Greg Bartnick.<sup>5</sup>

All plumbers are paid hourly and must be licensed by the State of Michigan. The Employer administers Department of Labor approved apprenticeship programs for plumbing and HVAC; however, not all employees choose to go through this training. Therefore, some of the apprentices are not truly apprentices, but would better be classified as entry level plumbers, laborers, or helpers. Apprentices are typically paid between \$10.50 and up to 80% or 90% of journeyman wages. Most apprentices come up through the ranks from other positions, such as warehouse. Licensed journeymen plumbers earn anywhere between about \$24.00 and \$28.50 per hour and are paid the same regardless of whether they work in service or installation.

The 17 residential and 16 commercial HVAC installers sought by the Petitioner are responsible for installing new equipment such as furnaces and air conditioners. They may also do new construction and commercial insurance work, but typically, they do installation.

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<sup>4</sup> At the hearing, the parties stipulated that Meade, Cantwell, and Lawrey are statutory supervisors under Section 2(11) of the Act, as they can effectively recommend discipline, and direct the work of others using independent discretion.

<sup>5</sup> At the hearing, the parties stipulated that Miller, Flis, and Drumhiller are statutory supervisors under Section 2(11) of the Act, as they direct the work of others using independent discretion.

Approximately 3 of the 17 residential HVAC installers also perform electrical work. HVAC installers are paid between \$10.50 to \$26.00 per hour, with apprentices at the low end of the pay rate and journeymen at the high end. The rate of pay is also higher for commercial work than for residential work. Approximately nine installers work out of the Livonia facility and report directly to Rob Verory. About nine installers work out of the North facility and report to Gary Chimelewski (North installation field supervisor). The remainder work out of the South facility, and report to Steve Flis or Field Supervisor Jim Fortin.<sup>6</sup>

The two sheet metal workers sought by the Petitioner work out of the South facility and are supervised directly by Keith Gibbs. Gibbs reports to the asset manager, Everett Maro. The sheet metal workers have a great deal of experience but are not required to hold a license. The sheet metal workers have some interaction with HVAC installers, as they are responsible for making sheet metal for residential and commercial HVAC installation. To a lesser degree, the sheet metal workers have some interaction with HVAC service technicians. For example, a service technician may require a part from a sheet metal worker to complete a service call.

The 12 warehouse employees typically work various shifts between the hours of 7:00 a.m. to 6:00 p.m. The warehouse employees are responsible for supporting the technicians, inventory, the tool crib, purchasing, stocking vehicles, and taking parts or trucks in for service. Warehouse employees also perform general maintenance tasks such as mowing the lawn, shoveling the snow, changing light bulbs, and emptying the garbage. Plumbers, installers, and technicians will call the warehouse if they need a particular part for a customer. The warehouse employee quotes a price for the part, and the price will then be communicated to the customer. If the customer wants the part, the warehouse employee orders it. Warehouse employees occasionally help on a job assignment if an extra pair of hands is needed.

Approximately three warehouse employees work at the South facility and are supervised by Everett Maro. Approximately six warehouse employees work at the Livonia facility and are supervised by Mark Hatchigan, the Livonia warehouse manager. The remaining three warehouse employees are couriers and also report to Mark Hatchigan.<sup>7</sup> The warehouse couriers are responsible for dropping off materials and parts at jobsites, picking up parts, and carrying communications back and forth, such as company newsletters. All warehouse employees are required to perform courier duties on occasion as needed. Warehouse employees have interaction with the above-described classifications on nearly a daily basis. Warehouse employees are paid between \$11.00 to \$16.00 per hour.

The 14 customer service representatives are responsible for providing support to service and installation, pulling permits for jobs, processing warranty information, booking and

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<sup>6</sup> At the hearing, the parties stipulated that Chimelewski and Fortin are statutory supervisors under Section 2(11) of the Act, as they direct the work of others using independent discretion.

<sup>7</sup> At the hearing, the parties stipulated that Maro and Hatchigan are statutory supervisors pursuant to Section 2(11) of the Act, as they direct the work of others using independent discretion.

scheduling customer calls, and handling customer calls. Installers, technicians, and plumbers may call the customer service representative if they are running late, or to get better directions to a customer's location. The customer service representatives dispatch the residential plumbers, technicians, and installers from their homes to give them their job assignments. When employees finish a job, they call the dispatcher to get their next job. They also call the dispatchers to inquire about parts they are waiting on for particular jobs. Customer service representatives occasionally have to communicate with warehouse employees such as when a part needs to be brought out to a particular jobsite. Approximately four customer service representatives work at the South facility and are supervised directly by Paula Gravlin-Burris. The remaining customer service representatives work at the Livonia facility. Seven or eight of those employees are supervised by Colleen Zadorski (operations manager)<sup>8</sup>; of the remaining two, one is supervised by Terrence Miller, and one is supervised directly by Christine Elder. Customer service representatives are paid between \$12.00 to \$15.00 per hour.

The Act does not require that the unit for bargaining be the only appropriate unit, or the ultimate unit, or the most appropriate unit; the Act requires only that the petitioned-for unit be appropriate. *Transerv Systems*, 311 NLRB 766 (1993); *Morand Brothers Beverage Co.*, 91 NLRB 409, 418 (1950). A union is not required to seek representation in the most comprehensive grouping of employees unless such grouping alone constitutes an appropriate unit. *Bamberger's Paramus*, 151 NLRB 748 (1965). Additionally, a petitioner's desires as to unit is a relevant consideration. *Marks Oxygen Co.*, 147 NLRB 228, 230 (1964). However, a proposed bargaining unit based on an arbitrary, heterogeneous or artificial grouping of employees is not appropriate. *Moore Business Forms*, 204 NLRB 552 (1973); *Glossar Bros. Inc.*, 93 NLRB 1383 (1951). In determining whether a particular unit is appropriate the Board determines whether the employees share a community of interest. *Kalamazoo Paper Box Co.*, 136 NLRB 134 (1962). If the unit sought by the petitioner is appropriate, the inquiry ends. If, however, it is inappropriate, the Board will scrutinize the employer's proposals. *Dexcon, Inc.*, 295 NLRB 109, 111 (1989).

The Board has found that collective bargaining for groups of employees identified by function as well as craft skills is appropriate. *Dick Kelchner Excavating Co.*, 236 NLRB 1414 (1978); *R. B. Butler, Inc.*, 160 NLRB 1595 (1966). The Board also has held that an appropriate unit does not have to be either a craft or departmental unit so long as the unit is a clearly identifiable and distinct group of employees with common interests. *Del-Mont Construction Co.*, 150 NLRB 85 (1964). When deciding whether a proposed craft unit is appropriate, the Board considers the following factors: whether the petitioned-for employees participate in a formal training or apprenticeship program; whether the work is functionally integrated with the work of excluded employees; whether the duties of the petitioned-for employees overlap with the duties of the excluded employees; whether the employer assigns work according to need rather than on craft or jurisdictional lines; and whether the petitioned-

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<sup>8</sup> At the hearing, the parties stipulated that Zadorski is a statutory supervisor pursuant to Section 2(11) of the Act, as she directs the work of others using independent discretion.

for employees share common interests with other employees, including wages, benefits, and cross-training. *Burns & Roe Services Corp.*, 313 NLRB 1307, 1308 (1994).

The Employer's plumbers have unique skills and a separate apprenticeship program. Similarly, it appears that the two sheet metal workers have unique skills and experience. However, the record does not establish that HVAC service technicians have a unique set of skills such that they belong in a craft unit with the plumbers. Similarly, the record does not establish that HVAC installers belong in a separate craft unit with the sheet metal workers.<sup>9</sup> Moreover, the record establishes that the HVAC service technicians and HVAC installers have a substantial amount of interchange and communication, such that it would be inappropriate to place those employees in separate units.

Once an HVAC installer installs a unit, the service department becomes responsible for starting the system. Communication may occur about many different things related to the installation, including warranty issues, or errors by the installer that need to be fixed by a service technician. There is also some overlap between the work performed by residential HVAC service technicians and installers. Thus, on occasion installation work is slow due to the weather and when this occurs, HVAC installers may be sent out to do work that is typically performed by HVAC service technicians, such as duct cleaning and maintenance checks. HVAC commercial service technicians will sometimes finish up an installation job, particularly in emergency situations where there is a shortage of commercial installers.

In addition, residential HVAC installers sometimes work with installation plumbers. For example, they may work at the same location if a customer decided to get a new furnace as well as new plumbing at the same time. If plumbing installation work is slow, installation plumbers may do all of the work, including work that is normally done by the HVAC installers. The Employer markets itself as an integrated operation, and has package deals for its heating, air conditioning, and plumbing services. Employees receive training on cross-selling the Employer's products, including how to answer questions from customers regarding other possible work.<sup>10</sup>

Furthermore, approximately 35% of the Employer's commercial business involves contracting with insurance companies to perform work in the wake of natural disasters. In order to be able to complete this type of emergency work, the Employer has sent employees in nearly all classifications out to natural disaster sites. Employees working at the site may perform various tasks regardless of their classification. However, when this occurs, the Employer coordinates the group to insure that there is at least one lead person from each

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<sup>9</sup> There was some mention in the record that 3 of the 17 HVAC installers perform electrical work. The record does not elaborate on that point as to the different skills that may or may not be required to perform that work.

<sup>10</sup> The Employer has what is called a "leave behind package" that the employee gives to the customer, which explains the various installation packages and services offered by the Employer. The record did not elaborate on what type of training is received by employees on cross-selling, or how extensive this training may or may not be.

classification. In 1998 and 1999 a group of employees including service technicians, installers, plumbers, and warehouse employees performed work in Puerto Rico after Hurricane George. The Employer has also been involved in reconstruction projects in the wake of disasters such as floods and fires.

All employees, regardless of classification, are covered by an Employer handbook, are paid hourly, are entitled to the same benefits, and wear similar uniforms, with the exception of customer service representatives. Although each classification has a different immediate supervisor, all of the residential plumbers and residential HVAC service technicians, and residential HVAC installers ultimately report to Christine Elder; and all of the commercial installation plumbers, commercial HVAC service technicians, and commercial HVAC installers ultimately report to Greg Bartnick. In this respect, the Employer has structured its business according to the type of customer (residential or commercial), rather than according to craft. There is also considerable crossovers between residential and commercial activities.

The record does not establish that each petitioned-for unit is a homogeneous group of employees with common interests distinguishable from employees in the other petitioned-for unit. As such, the proposed units fail to satisfy the requirements of a craft unit since they are not limited to plumbers or sheet metal workers. *A.C. Pavement Striping Co.*, 296 NLRB 206 (1989). I conclude that the employees in the petitioned-for units work in an integrated process which requires that they work together in the interrelated process of installing and servicing the Employer's systems. *Johnson Controls*, 322 NLRB 669 (1996). Accordingly, I find that an overall unit consisting of all of plumbers, HVAC service technicians, HVAC installers, and sheet metal workers, is the "minimum" appropriate unit. *Harrah's Club*, 187 NLRB 810, 812 (1971).

My conclusion is consistent with the Board's recent decision in *CCI Construction Co.*, 326 NLRB 1319 (1998), wherein the union petitioned for a traditional sheet metal workers craft unit. The Board rejected the Employer's argument for a wall-to-wall unit including plumbers, sheet metal workers, and HVAC employees. The Board stated "while some factors may favor a wall-to-wall unit, e.g., come contact and overlap of job functions, shared common personnel policies and benefits, a sheet metal craft unit is an appropriate unit." *Id.* at 1323. The Board reached a similar result in *Schaus Roofing*, 323 NLRB 781 (1997), where the petitioner sought sheet metal workers and the Employer argued that five employees, who performed pipefitting work in addition to sheet metal work, should be included in the unit.

In both *CCI Construction* and *Schaus Roofing*, the Board did not hold that overall units would be inappropriate; it simply found that the petitioned-for craft units were appropriate. In this case, the petitioned-for units are not traditional craft units. If sought by the petitioners, a craft unit of plumbers may have been found appropriate, as would a craft unit of sheet metal workers. By seeking to divide HVAC employees between the two units, the petitioners have blurred craft lines, and are no longer seeking a homogenous, distinct craft unit,



but a hybrid. In addition, the nature of the Employer's business is such that the craft lines have been blurred to a greater extent than in *CCI Construction* and *Schaus Roofing*.

Warehouse employees and customer service representatives also enjoy the same benefits and working conditions as employees in the above-described unit. However, warehouse employees and customer service representatives work directly at the facilities, as opposed to in the field, as do the plumbers, sheet metal workers, service technicians, and installers. Thus, sheet metal workers do not have a significant amount of interaction with warehouse employees or customer service representatives. The communication between warehouse employees and field employees is minimal; it is mostly limited to times when the field employees pick up uniforms at the facility and/or drop off or pick up parts. On occasion, a warehouse employee may go out to a work site to help out for a limited time if an extra pair of hands is needed and if the task does not require a great deal of skill. The amount of communication between customer service representatives and field employees is limited mostly to phone calls for directions and for questions about particular customers. In addition, as an overall unit, the plumbers, technicians, installers, and sheet metal workers require a much greater level of skill and knowledge than the warehouse employees or customer service representatives.<sup>11</sup> The earnings of an experienced plumber, technician, installer, or sheet metal worker far exceed the earnings of the highest paid warehouse employee or customer service representative.

Although the evidence submitted by the Employer suggests the appropriateness of an overall unit including warehouse employees and customer service representatives, it does not demonstrate that a unit limited to the field employees is inappropriate. Instead, the higher skill levels and other factors mentioned above demonstrate that a unit limited to field employees, as suggested by the petitioners, constitutes an appropriate bargaining unit. See *Audiovox Communications Corp.*, 323 NLRB 647 (1997); *United Shoe Machinery*, 185 NLRB 200 (1970). Consequently, warehouse employees and customer service representatives need not be included in the unit found appropriate herein.

5. Based on the foregoing, and the record as a whole, I find in Case 7-RC-2111 that the following employees constitute an appropriate unit of employees for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:<sup>12</sup>

All full-time and regular part-time plumbers, HVAC service technicians, HVAC installers, and sheet metal workers employed by the Employer at or out of its facility located at 1451 E. Nine Mile Road, Hazel Park, Michigan;

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<sup>11</sup> As stated above, both HVAC employees and plumbers have the opportunity to join an approved apprenticeship program, although such is not required.

<sup>12</sup> Although the appropriate unit is broader than that petitioned for by the Joint Petitioners, I am administratively satisfied that the Joint Petitioners have a sufficient showing of interest.

but excluding all customer service representatives, warehouse employees, guards and supervisors as defined in the Act.

Those eligible to vote shall vote as set forth in the attached Direction of Election.

Since this unit combines the units sought by each of the Petitioner and Joint Petitioners, IT IS ORDERED, based on the foregoing and the entire record, that the petition in 7-RC-22110 is dismissed, although the Petitioner has a adequate showing of interest to appear on the ballot in the election directed in 7-RC-22111.

Dated at Detroit, Michigan, this 7<sup>th</sup> day of December, 2001.

(SEAL)

/s/ William C. Schaub, Jr.

William C. Schaub, Jr.

Regional Director

Region Seven

National Labor Relations Board

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